in determining priority it is proper that the time of the contract, not of the writing, should govern.

TORTS — UNUSUAL CASES OF TORT LIABILITY — MENTAL ANGUISH CAUSED BY PRACTICAL JOKE — DAMAGES. — A tradition in the plaintiff's family concerned an ancestral pot of gold buried in the neighborhood. On the basis of a map, shown her by a fortune teller, the plaintiff commenced to dig for treasure. As a practical joke the defendants hid a sealed pail, filled with dirt, in a place where the plaintiff must naturally unearth it. She found the pail, and, in accordance with its accompanying directions, solemnly opened it in the presence of all the heirs. She now sues for financial outlay and mental anguish over disappointed hopes. The plaintiff having died *pendente lite*, her heirs continue the suit. *Held*, that the heirs may recover $500. *Nickerson* v. *Hodges*, 84 So. 37 (La.).

Society gives a license to enjoy the free exercise of one's faculties. See Roscoe Pound, "Interests of Personality," 28 HARV. L. REV. 343, 361. But it is generally admitted that individuals will not be secured in freely exercising their faculties for the purpose of injuring others. *Wilkinson* v. *Downton*, [1897] 2 Q. B. 57; *Janvier* v. *Sweeney and Barker*, [1919] 2 K. B. 316; see 28 HARV. L. REV. 343, 362. By exceeding this social license in their practical joking the defendants above doubtless gave to the plaintiff, had she survived, a valid right of action against them. By the Code the plaintiff's heirs succeed to the plaintiff's right. LA. R. C. C., Art. 2315. The court says: "If Miss Nickerson were still living, we should be disposed to award her damages in a substantial sum." But, as to her heirs, "a judgment of $500 will reasonably serve the ends of justice." A Midsummer Night's prank does not call for Midsummer Night's justice. By law the heirs, as legal successors to the deceased, must be entitled to all the "substantial sum" or nothing. They might well protest this judgment as the true mother protested when Solomon would have halved the baby between the disputing harlots.

TRESPASS TO REALTY — CONTINUOUS TRESPASS — LIMITATION OF ACTION. — In 1912 defendant county seized a strip of plaintiff's land, without color of right, and built a highway. In 1920, as a defense against an action of trespass *quare clausum fregit*, defendant pleaded the statute of limitations. The court charged that the plaintiff could recover, without first retaking possession, and that the statute was not a bar to a recovery of damages for the last six years of occupation. *Held*, that the charge was correct. *Morey* v. *Essex County*, 110 Atl. 905 (N. J.).

When a trespass on realty is a completed act the cause of action accrues and the statute of limitations runs from that moment. *Kansas Pacific Ry.* v. *Mihlman*, 17 Kan. 224. And consequential damage occurring later cannot turn it into a continuing trespass. *Louisville Ry.* v. *Wiggington*, 156 Ky. 400, 161 S. W. 209. But when the trespass is a continuing injury to possession the statute runs afresh from each day's wrong. See *Milton* v. *Puffer*, 207 Mass. 416. The court here treats the plaintiff as having lost possession by the seizure. If so, there could be no continuing injury to his possession. But the result reached seems correct because defendant, appropriating at most a right of way, did not really gain possession. Some states treat such an appropriation as a completed trespass, because it makes a permanent alteration in plaintiff's land. *Adams* v. *Macon Ry.*, 141 Ga. 701, 81 S. E. 1110. But the use of an assumed right of way is in its nature a continuing wrong, and the weight of authority agrees with the decision. *Building Company* v. *Chicago*, 207 Ill. App. 244; *Carl* v. *Sheboygan Rd.*, 46 Wis. 625, 1 N. W. 295.